

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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TRUSTEES of the EMPIRE STATE CARPENTERS
WELFARE, PENSION ANNUITY, APPRENTICESHIP,
CHARITABLE TRUST, LABOR MANAGEMENT
COOPERATION, and SCHOLARSHIP FUNDS,

ORDER
11-cv-2288 (ADS)(GRB)

Plaintiffs,

-vs.-

PROTRAC CONSTRUCTION, INC.,

Defendant.

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APPEARANCES:

Selvin & Hart, P.C.

Attorneys for the Plaintiffs

1625 Massachusetts Ave, N.W.

Suite 450

Washington, DC 20036

By: Owen M. Rumelt, Esq., of Counsel

NO APPEARANCE:

Protrac Construction, Inc.

SPATT, District Judge.

The Plaintiffs, the Trustees of the Empire State Carpenters Welfare, Pension Annuity, Apprenticeship, Charitable Trust, Labor Management Cooperation, and Scholarship Funds, bring this action against the Defendant Protrac Construction, Inc. for the collection of delinquent and unpaid fringe benefit contributions and attendant damages pursuant to Section 502 of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), 29 U.S.C. § 1132. On April 23, 2012, the Court referred the matter to United States Magistrate Judge Gary R. Brown for a recommendation as to whether the motion for a default judgment should be granted, and if so, to determine what relief is appropriate, including reasonable attorney's fees and costs.

On February 10, 2013, Judge Brown issued a thorough Report recommending that the Court grant judgment against Protrac Construction, Inc. and that the Plaintiffs be awarded damages as follows: (1) unpaid employee benefit contributions in the amount of \$32,769.71; (2) interest through April 13, 2012 in the amount of \$48,268.92, plus additional interest through the date of judgment, to be calculated at a rate of \$23.34 per day; (3) liquidated damages in the amount of \$6,553.94; (4) audit fees in the amount of \$3,547.50; (5) attorney's fees in the amount of \$1,707.50; and (6) costs in the amount of \$ \$895.46, for a total monetary award of \$ \$93,743.03 plus additional pre-judgment interest. To date, no objection has been filed to Judge Brown's Report and Recommendation.

In reviewing a report and recommendation, a court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). "To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003) (citing Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)). The Court has reviewed Judge Brown's Report and finds it be persuasive and without any legal or factual errors. There being no objection to Judge Brown's Report, the Court adopts the Report.

For the foregoing reasons, it is hereby:

ORDERED that Judge Brown's Report and Recommendation is adopted in its entirety, and it is further

ORDERED that the Clerk of the Court is directed to enter a default judgment against the Defendant in the amounts recommended by Judge Brown and set forth above, and it is further

ORDERED that the Clerk of the Court is respectfully directed to close this case.

SO ORDERED.

Dated: Central Islip, New York
March 12, 2013

/s/ Arthur D. Spatt
ARTHUR D. SPATT
United States District Judge